

### **Remarks/Arguments**

In the Office Action dated April 2, 2009, it is noted that claims 1-16 and 18-28 are pending in this application and that claims 1-16 and 18-28 stand rejected under 35 U.S.C. §102.

By this response, claim 18, 19, 20, and 22 have been amended in order to correct the dependency of each to be from claim 16. Claim 17 was previously cancelled without prejudice. No new matter has been added.

### **Cited Art**

The following reference has been cited and applied in the present Office Action: U.S. Patent 6,701,528 to Arsenault et al. (hereinafter referenced as “Arsenault”).

### **Rejection of Claims 1-16 and 18-28 under 35 U.S.C. §102**

Claims 1-16 and 18-28 stand rejected under 35 U.S.C. §102 as being anticipated by Arsenault. This rejection is respectfully traversed.

Claims 1 and 14 are independent method claims. Claims 16 and 23 are independent apparatus claims. Claims 2-13 and 28 depend, either directly or indirectly, from claim 1 and include all the limitations thereof. Claim 15 depends directly from claim 14 and includes all the limitations thereof. Claims 18-22 depend, either directly or indirectly, from claim 16 and include all the limitations thereof. Claims 24-27 depend, either directly or indirectly, from claim 23 and include all the limitations thereof.

### **Claims 1-13 and 28**

Claim 1 calls, in part, for:

*A method for providing video on demand playback,  
comprising:*

*...  
receiving at said VoD player a key table containing packet  
count information corresponding to the number of data  
packets contained in at least one of said program segments;  
and*

*identifying an end point of at least one of said plurality of program segments by counting a number of data packets that are decoded for playback.*

None of the limitations shown above in claim 1 are taught, shown, or suggested by Arsenault.

Arsenault appears to teach a Video On Demand or Near Video On Demand system in which a plurality of program segments are recorded and stored in a relatively short time for playback by the user. The section of Arsenault applied against the claims is reproduced below in its entirety from col. 1, line 63 through col. 2, line 21 as follows:

*In summary, the present invention describes a system and method in which an integrated receiver/decoder (IRD) or similar device is used to select and store programs to support video on demand. In one embodiment, programs are selected by use of a broadcaster-controlled attribute, such as a flag in a program guide. In another embodiment, this is accomplished by a customer setup profile (e.g. programs with DOLBY digital or programs of a specific genre). The IRD scans the program guide to identify VOD candidates, and based on the start times in the program guides and transport streams, the schedules the pre-recording of segments of the identified programs.*

*The scheduled pre-recording of segments of the identified programs can occur at a rate that is faster than real time. To accomplish this, the IRD scans the program guide and learns the start time for each of the NVOD candidates. When multiple staggered program start times are found, the IRD determines which portions of the program can be received and stored in parallel in order to pre-record all relevant program segments in the shortest time. IRDs with single tuners acquire staggered start times that are on the same transport stream, while multi-tuner IRDs can collect data from many transport streams. After the storage process is complete, the customer is informed (for example, by the program guide), that the video program is available for VOD playback.*

Arsenault fails to teach “receiving at said VoD player a key table containing packet count information corresponding to the number of data packets contained in at least one of said program segments”, as defined in claim 1. While Arsenault appears to disclose receipt of program segments, there is no statement of receipt of data even remotely resembling the “key table” defined in the claims. Nowhere does Arsenault

even hint at the existence of, or need for, “a key table containing packet count information corresponding to the number of data packets contained in at least one of said program segments”, as defined in claim 1. A complete review of the Arsenault reference also results in a similar conclusion. Thus, Arsenault fails to teach all the limitations of claim 1.

In certain modes of operation, Arsenault discloses receipt of a purchase information packet or “PIP”. *See Arsenault at col. 9, lines 20-36, for example.* But the PIP is not even suggestive of “a key table containing packet count information corresponding to the number of data packets contained in at least one of said program segments”, as defined in claim 1. The PIP includes user information about purchasability for the program(s) of interest for the user. According to Arsenault, the PIP information includes “blackouts, rating, credit balance, etc.” *See Arsenault at col. 9, line 36.* Thus, Arsenault again fails to teach all the limitations of claim 1.

Arsenault fails to teach “identifying an end point of at least one of said plurality of program segments by counting a number of data packets that are decoded for playback”, as defined in claim 1. The only determination apparently disclosed by Arsenault is that of which “which portions of the program can be received and stored in parallel in order to pre-record all relevant program segments in the shortest time.” *See reproduced section of Arsenault above.* Arsenault’s determination is not defined in any manner which resembles or suggests the identification of an end point of at least one program segment, as defined in the claims. There is no statement in the quoted section of Arsenault or, for that matter, anywhere else in the Arsenault reference that suggests counting the number of data packets decoded for playback in order to identify the end point of a program segment, as defined in claim 1. Again, a complete review of the Arsenault reference results in the same conclusion with respect to the “identifying” limitation of claim 1. Thus, Arsenault fails to teach all the limitations of claim 1.

In light of the remarks above, it is believed that the elements of claim 1 are not anticipated by Arsenault and these elements of claim 1 would not have been obvious to a person of ordinary skill in the art upon a reading of Arsenault, either separately or in combination with known prior art. Thus, it is submitted that claim 1 is allowable under

both 35 U.S.C. §102 and 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

As noted above, claims 2-13 and 28 depend, either directly or indirectly, from claim 1 and include all the limitations thereof. Since claim 1 is believed to be allowable over Arsenault, it is submitted that claims 2-13 and 28 are also allowable over Arsenault for at least the same reasons discussed above. Therefore, it is believed that claims 2-13 and 28 are allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

#### **Claims 14 and 15**

Claim 14 calls in part for “broadcasting one or more earlier ones of said plurality of segments, that chronologically are intended to precede later segments in said program, **more frequently than said later segments.**” [Emphasis supplied]. While Arsenault appears to disclose the concept of a pre-stored segment, Arsenault fails to show any appreciation or desire for broadcasting such a pre-stored segment more frequently than any other portion of the program. Arsenault’s Figures 6 and 8 clearly indicate that all programs segments are broadcast and received on a regular periodic basis. There is no showing or suggestion in Arsenault that one program segment is broadcast more frequently than another program segment. Moreover, there is a failure by Arsenault to show the more frequent broadcast of any segments that chronologically are intended to precede later segments in said program, as defined in claim 14. Thus, Arsenault fails to teach all the limitations of claim 14. Since claim 15 depends directly from claim 14 and includes all the limitations thereof, it is submitted that Arsenault also fails to teach all the limitations of claim 15.

In light of the remarks above, it is believed that the elements of claims 14 and 15 are not anticipated by Arsenault and these elements of claims 14-15 would not have been obvious to a person of ordinary skill in the art upon a reading of Arsenault, either separately or in combination with known prior art. Thus, it is submitted that claims 14 and 15 are allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

### **Claims 16 and 18-22**

Claim 16 calls, in part, for “means for receiving and storing a key table containing packet count information corresponding to a number of data packets contained in at least one of said program segments.” This limitation is substantially similar to the limitation in claim 1 defining the key table. For all the reasons set forth above with respect to claim 1 concerning Arsenault and the “key table” limitation, it is submitted that Arsenault fails to teach all the limitations of claim 16.

In light of the remarks directly above and with respect to claim 1, it is believed that the elements of claim 16 are not anticipated by Arsenault and these elements of claims 16 would not have been obvious to a person of ordinary skill in the art upon a reading of Arsenault, either separately or in combination with known prior art. Thus, it is submitted that claim 16 is allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

As noted above, claims 18-22 depend, either directly or indirectly, from claim 16 and include all the limitations thereof. Since claim 16 is believed to be allowable over Arsenault, it is submitted that claims 18-22 are also allowable over Arsenault for at least the same reasons discussed above. Therefore, it is believed that claims 18-22 are allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

### **Claims 23-27**

Claim 23 calls in part for “means for broadcasting one or more earlier ones of said plurality of segments, that chronologically are intended to precede later segments in said program, **more frequently than said later segments.**” [Emphasis supplied]. This limitation is substantially identical to the method limitation discussed above with respect to claim 14. For all the reasons set forth above with respect to claim 14 concerning Arsenault and the above-cited limitation, it is submitted that Arsenault fails to teach all the limitations of claim 23.

In light of the remarks directly above and with respect to claim 14, it is believed that the elements of claim 23 are not anticipated by Arsenault and these elements of claims 16 would not have been obvious to a person of ordinary skill in the art upon a

reading of Arsenault, either separately or in combination with known prior art. Thus, it is submitted that claim 23 is allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

As noted above, claims 24-27 depend, either directly or indirectly, from claim 16 and include all the limitations thereof. Since claim 23 is believed to be allowable over Arsenault, it is submitted that claims 24-27 are also allowable over Arsenault for at least the same reasons discussed above. Therefore, it is believed that claims 24-27 are allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

### ***Conclusion***

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Entry of this amendment, reconsideration, and allowance of all the claims are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact the Applicants' attorney, so that a mutually convenient date and time for a telephonic interview may be scheduled for resolving such issues as expeditiously as possible.

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In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 07-0832.

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